

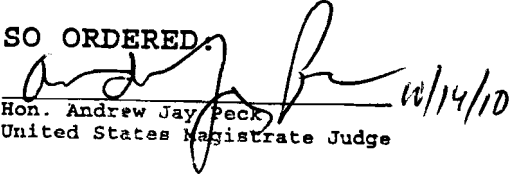
USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC#  
DATE FILED: 10/18/10

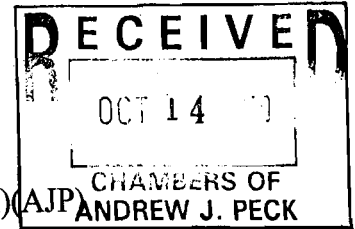
08-5996

**MEMO ENDORSED**

Plaintiffs' motion that I recuse myself (Dkt. No. 262) is denied as frivolous. Plaintiffs' cannot manufacture a basis for recusal by quoting an "unnamed informant" alleging that that person's attorney (presumably Mr. Moerdler) said he knew something about my background. I have no connection with Mr. Moerdler (or any of the other attorneys in this case and the predecessor Teachers4Action case) except what has occurred in these cases. There is no basis for my recusal. My rulings against plaintiffs are not a basis for recusal. Nor are Judge Marrero's upholding my rulings a basis for his recusal (but he will need to himself rule on that aspect of this motion). The motion is insulting and frivolous— and frankly a sign of plaintiffs (and their counsel Mr. Penkovsky's) desperation when faced with dismissal of their case and Rule 11 sanctions.

SO ORDERED.

  
Hon. Andrew Jay Peck  
United States Magistrate JudgeCopy ECF: All Counsel  
Judge Marrero**BY ECF**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
TWANA ADAMS, *et al.*,

Plaintiffs,

-against-

NEW YORK STATE EDUCATION  
DEPARTMENT, *et al.*,

Defendants.  
-----X

CASE NO. 08-CV-5996 (VM)(AJP)

**NOTICE OF MOTION**

**TO RECUSE      COURTESY COPY**  
**MAGISTRATE JUDGE PECK and**  
**DISTRICT JUDGE MARRERO**

**BY PLAINTIFFS MICHAEL EBOWO,**  
**JOANN HART, JULIANNE POLITO,**  
**THOMASINA ROBINSON and BRANDI**  
**SCHEINER**

**PLEASE TAKE NOTICE** that upon the declaration of Nicholas A. Penkovsky dated October 4, 2010, and the exhibit annexed thereto, the Memorandum of Law in Support of the motion of plaintiffs Michael Ebewo, Joann Hart, Julianne Polito, Thomasina Robinson and Brandi Scheiner to Recuse Magistrate Judge Peck and District Judge Marrero, and all other pleadings and proceedings had herein, plaintiffs Michael Ebewo, Joann Hart, Julianne Polito, Thomasina Robinson and Brandi Scheiner will move this Court before the Honorable Andrew J. Peck, Magistrate Judge, and before the Honorable Victor Marrero, District Court Judge, at the United States Courthouse for the United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, on October 22, 2010, 2010 for an order pursuant to 28 U.S.C. § 455(a) in that the impartiality of said Magistrate Judge and District Court Judge may reasonably be questioned.

Plaintiffs respectfully request that said Magistrate Judge and District Court Judge (1) recuse themselves from presiding over this case, (2) stay further proceedings, (3) vacate the August 23, 2010 Report and Recommendation, and (4) transfer this case to the United States District Court for the Eastern District of New York in Brooklyn, New York for random

**MEMO ENDORSED**

- ATTACHED

reassignment to a District Court Judge presiding thereat.

**PLEASE TAKE FURTHER NOTICE**, that opposing papers, if any, must be served on the undersigned by October 15, 2010.

Dated: New York, New York  
October 4, 2010

LAW OFFICES OF NICHOLAS A. PENKOVSKY, P.C.  
Attorneys for Plaintiffs Ebewo, Robinson, Polito, Scheiner  
and Hart  
112 Madison Avenue, Sixth Floor  
New York, NY 10016  
Tel. (212) 216-9708  
Fax (212) 216-9491

By:                     / s,                      

By: Nicholas A. Penkovsky, Esq. (NP 0134)